

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28th DAY OF NOVEMBER, 2019

PRESENT

THE HON'BLE MR.ABHAY S. OKA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE MOHAMMAD NAWAZ



W.P. NO. 24385 of 2013 (S-RES)

C/W

W.P. NO. 58571 of 2015 (S-RES).

W.P. NO. 44240 of 2013 (S-RES)

IN W.P. NO. 24385 of 2013

BETWEEN

1. VIJAYAKUMAR RAI
S/O LATE NARAYANA RAI
AGED 39 YEARS
II ADDL. CIVIL JUDGE AND JMFC
SHIVAMOGA-577 201
2. SMT. RAJESHWARI J PURANIK
W/O SHIVAKUMAR
AGED 35 YEARS
II ADDL. CIVIL JUDGE AND JMFC
II COURT, BIJAPUR-586101
3. SHANTALA RAMESH DODWAD
W/O RAMESH
AGED 33 YEARS
IV. ADDL CIVIL JUDGE,
MYSORE-532101
4. SARVAMANGALA K.M.
W/O VIJAYA VITTAL
AGED 39 YEARS

II ADDL. CIVIL JUDGE AND JMFC
BHADRAVATHI-577301

5. SRINIVAS H BADARPUR
S/O HANUMANTHAPPA
AGED 34 YEARS
CIVIL JUDGE AND JMFC
KARWAR-581301
6. B. SIDDARAJU
S/O R BASAVAI AH
AGED 43 YEARS
ADDL. CIVIL JUDGE AND JMFC II COURT,
MADIKERI-571201
7. SHARMILA S
W/O K M SHRINIVASMURTHY
AGED 34 YEARS
CIVIL JUDGE AND JMFC BELUR
HASSAN DISTRICT-573201
8. GIRAMALLAPPA RAMAPPA SHETTAR
S/O RAMAPPA
AGED 40 YEARS
CIVIL JUDGE AND JMFC
INDI, BIJAPUR DISTRICT-586101
9. SOMASHEKARA A
S/O ADIMURTHY
AGED 38 YEARS
PRINCIPAL CIVIL JUDGE AND JMFC
RAICHUR-584101
10. ARAVIND SAIBANNA AAGARGI
S/O SAIBANNA
AGED 38 YEARS
CIVIL JUDGE AND JMFC
BELGAUM-590001
11. GUDI VASUDEV RADHAKANT
S/O RADHAKANTH
AGED 35 YEARS
CIVIL JUDGE AND JMFC
AFZALPUR
GULBARGA DISTRICT-585321

12. J V KULAKARNI
S/O VASANTHA RAO
AGED 36 YEARS
PRL. CIVIL JUDGE AND JMFC MADDUR
MANDYA DISTRICT-571401
13. BHOLA PANDIT
S/O SAMBANNA
AGED 41 YEARS
ADDL CIVIL JUDGE AND JMFC
GOKAK
BELGAUM DISTRICT-590001
14. SUBRAMANYA N
S/O NARAYANA
AGED 31 YEARS
CIVIL JUDGE AND JMFC
CHIKMAGALUR-577101
15. NAMADEV KAMANNA SALAMANTAPI
S/O KAMANNA
AGED 33 YEARS
CIVIL JUDGE AND JMFC, MUDDEBIHAL
BIJAPUR DISTRICT-586101
16. BALAPPA APPANNA JARAGU
S/O APPANNA, AGED 37 YEARS
PRINCIPAL CIVIL JUDGE AND JMFC
RANEBENNUR
HAVERI DSITRICT-581110
17. HANUMANTHRAJ H (SRI BHOVI H)
S/O G HANUMANTHAPPA
AGED 43 YEAS
CIVIL JUDGE AND JMFC
HEGADADEVANAKOTE
MYSOE DISTRICT-532101
18. PRAKASH ARJUN BANASODE
S/O ARJUN BANSODE
AGED 35 YEARS
ADD. CIVIL JUDGE AND JMFC, HARAPANAHALLI
DAVANAGERE DISTRICT-577001
19. MALAKARI RAMAPPA WADEYAR
S/O RAMAPPA

AGED 37 YEARS
CIVIL JUDGE AND JMFC
BASAVAKALYANA-585327

20. ARUNAKUMARI
W/O SOMANATH HEGDE
AGED 33 YEARS
IV ADDL CIVIL JUDGE AND JMFC
SHIVAMOGA-577201
21. KURUVATTAPPA SOMANNA ROTTER
S/O SOMANNA ROTTER
AGED 34 YEARS
CIVIL JUDGE AND JMFC, CHITTAPUR
GULBARGA DISTRICT-585321
22. PRAKASH C.D.
S/O. C. DEVEGOWDA
AGED 37 YEARS
ADDL CIVIL JUDGE AND JMFC
BIJAPUR-586101
23. RAGHAVENDRA R
S/O RAMACHANDRAPPA A
AGED 32 YEARS
CIVIL JUDGE AND JMFC, SAVANUR
HAVERI DISTRICT-581110
24. SHILPA H.A.
W/O PAWAN CHANDRA SHETTY
AGED 32 YEARS
CIVIL JUDGE AND JMFC
SAKALESHPUR
HASSAN DISTRICT-573201
25. CHANDRASHEKAR B.C.
S/O SANNA CHANNAIAH
AGED 31 YEARS
ADDL. CIVIL JUDGE AND JMFC
CHINTHAMANI
CHICKBALLAPUR DISTRICT-562101
26. NAGAMANI V
W/O SHUBHAKAR
AGED 33 YEARS

ADDL CIVIL JUDGE AND JMFC
GOWRIBIDANUR
CHICKBALLAPUR DISTRICT-562101

27. LOKESHA S/O DODDA BELLIAH
AGED 33 YEARS
IV ADDL CIVIL JUDGE AND JMFC
MANGALORE-575001

28. K LAKSHMI
W/O LOKESH
AGED 39 YEARS
ADD. CIVIL JUDGE AND JMFC
MADHUGIRI
TUMKUR DISTRICT-572101

29. C VEERABHADRAIAH
S/O CHANNAVEERAAIAH
AGED 36 YEARS
ADDL. CIVIL JUDGE AND JMFC
HUNASUR
MYSORE DISTRICT-532101

30. PRABHU NEELACHARI BADIGER
S/O NEELACHARI
AGED 36 YEARS
CIVIL JUDGE AND JMFC
ALANDA
GULBARGA DISTRICT-585321

31. BHAVANI L.J.
W/O ARUN J
AGED 35 YEARS
CIVIL JUDGE AND JMFC
ANKOLA, KARWAR-581301

32. SANTOSH S KUNDER
S/O SUBHASH
AGED 34 YEARS
CIVIL JUDGE AND JMFC
GULBARGA-585321

33. BHARATHI M
W/O MAHESH KUMAR C.B.
AGED 32 YEARS

ADDL. CIVIL JUDGE
BANGALORE RURAL DISTRICT
BANGALORE-562106

34. RENUKA DEVIDAS RAIKAR
W/O PRASHANTH KUMAR
AGED 35 YEARS
CIVIL JUDGE AND JMFC
RANEBENNUR-581110
35. SHAKUNTHALA S
W/O NATESH
AGED 35 YEARS
CIVIL JUDGE AND JMFC
KOLARA-563101
36. MOHAMMED ANWAR HUSSAIN MOGALANI
S/O MAHABOOS SAB
AGED 38 YEARS
CIVIL JUDGE AND JMFC, MANVI
RAICHUR DISTRICT-584101
37. VENKATESH NAIK V
S/O VEERYA NAIK
AGED 40 YEARS
ADDL CIVIL JUDGE AND JMFC, MADDUR
MANDYA DISTRICT-571401
38. ANUPAMA D
W/O KATTARASA
AGED 31 YEARS
CIVIL JUDGE AND JMFC
NAGAMANGALA-571401
39. NOORUNNISSA
W/O RASHEED
AGED 33 YEARS
CIVIL JUDGE AND JMFC, K.R. NAGAR
MYSORE DISTRICT-532101
40. KUMARI SUJATHA
W/O MADAVA SUVARNA
AGED 36 YEARS
CIVIL JUDGE AND JMFC
MUNDAGOD, KARWAR DISTRICT-581301

41. RAVINDRA LAKSHMAN HONOLE
S/O LAXMAN HONALE
AGED 33 YEARS
CIVIL JUDGE AND JMFC SEDAM
GULBARGA DISTRICT-585321
42. SARASWATHI K.N.
W/O PRASANNA M THAMANKAR
AGED 34 YEARS
CIVIL JUDGE AND JMFC
MYSORE-532101
43. LAVANYA H.N.
W/O SIDDESH
AGED 32 YEARS
CIVIL JUDGE AND JMFC
METROPOLITAN MAGISTRATE
TRAFFIC COURT 6
BANGALORE CITY-560001
44. PRATHIBHA BANDURAO KULAKARNI
W/O PRAMOD KULKARNI
AGED 38 YEARS
CIVIL JUDGE AND JMFC
GULBARGA DISTRICT-585321
45. KUMARA S
S/O SOMAYYA
AGED 36 YEARS
ADDL. CIVIL JUDGE AND JMFC
MALAVALLI
MANDYA DISTRICT-571401
46. SARAVANAN S
S/O SELVARAJ
AGED 43 YEARS
ADDL CIVIL JUDGE AND JMFC
FUTTUR D.K.-574201
47. MALLIKARJUNA I KAMATAGI
S/O ESHWARAPPA
AGED 38 YEARS
CIVIL JUDGE AND JMFC
DEVADURGA
RAICHUR DISTRICT-584101

48. PATIL V SOMASHEKARAGOWDA
S/O SOMASHEKHARA GOWDA
AGED 35 YEAS
ADDL. CIVIL JUDGE AND JMFC
GULBARGA-585321
49. AMRITHA S. RAO
W/O MADHUSUDAN
AGED 35 YEARS
ADDL. CIVIL JUDGE AND JMFC
MYSORE-532101
50. SHARADA C HATTI
W/O H HONNAPPA BALI NAIK
AGED 36 YEARS
ADDL. CIVIL JUDGE AND JMFC
GULBARGA-585321
51. R CHANDRAPPA HONNUR
S/O RANGAPPA HONNUR
AGED 38 YEARS
CIVIL JUDGE AND JMFC, ANEKAL
BANGALORE RURAL DISTRICT-562101
52. NAGAMMA MAHADEVAPPA ICHCHANGI
W/O. MALTHESH
AGED 31 YEARS
CIVIL JUDGE AND JMFC
BANAHATTI
BAGALKOT DISTRICT-587101
53. SAHEEL AHAMED S. KUNNIBAVI
S/O SHAMSHUDDIN
AGED 37 YEARS
ADDL. CIVIL JUDGE AND JMFC
HASSAN-573201
54. ROOPA K
W/O SUBRAMANYA
AGED 28 YEARS
ADDL. CIVIL JUDGE AND JMFC
CHICKMAGALUR-577101
55. V HANUMANTHAPPA
S/O LATE VENKATAPPA
AGED 38 YEARS

III ADDL CIVIL JUDGE AND JMFC
CHICKMAGALUR-577101

56. VENKATAPPA B
S/O BHYRADASAPPA
AGED 35 YEARS
CIVIL JUDGE AND JMFC, SINDAGI
BIJAPUR DISTRICT-586101
57. PRAKASH V
S/O VENKATARAMANAPPA
AGED 38 YEARS
JMFC V COURT
MANGALORE-578301
58. UMA K
W/O SANTHOSH KUNDAR
AGED 38 YEARS
ADDL. CIVIL JUDGE AND JMFC
GULBARGA-585321
59. RAGHAVENDRA SHETTIGAR
S/O LATE PADMANABHA SHETTIGAR
AGED 31 YEARS
CIVIL JUDGE AND JMFC
PONNAMPETE
HASSAN-573201
60. LAKSHMIKANTH J MISKIN
S/O JANAKIRAM MISKIN
AGED 33 YEARS
CIVIL JUDGE AND JMFC
SIRUGUPPE, BELLARI DISTRICT-583101
61. KUMARA G
S/O GURUSWAMAPPA
AGED 34 YEARS
FRL CIVIL JUDGE AND JMFC
KOLAR-563101
62. DYAVAPPA S B
S/O BHEEMAPPA SAREKOPPADA
AGED 40 YEARS
CIVIL JUDGE AND JMFC, LINGASAGUR
RAICHUR DISTRICT-584101

63. NITHIN YASHWANTRAO
S/O YASHWANTH RAO
AGED 30 YEARS
CIVIL JUDGE AND JMFC
BHATKAL
UTTARA KANNADA DISTRICT-581301
64. SIDDARAM S/O TUKARAM
AGED 36 YEARS
CIVIL JUDGE AND JMFC BHALKI
BIDAR DISTRICT-585401
65. PREMA VASANTHARAO PAWAR
D/O VASANTHRAO PAWAR
AGED 36 YEARS
CIVIL JUDGE AND JMFC
RAMADURGA
BELGAUM DISTRICT-590001
66. VARADRAJ B
S/O KRISHNA
AGED 36 YEARS
CIVIL JUDGE AND JMFC
PAWGADA
TUMKUR DISTRICT-572101
67. MOHAN CHANDRA P
S/O JANARDHAN NAYAK P
AGED 37 YEARS
CIVIL JUDGE AND JMFC
GUDIBANDI
CHICKBALLAPUR DISTRICT-562101
68. MANOHARA M
S/O JANARDHANA SUVARNA
AGED 36 YEARS
CIVIL JUDGE AND JMFC, MADDUR
MANDYA DISTRICT-571401
69. GEETHAMANI
D/O MURUGESH
AGED 38 YEARS
III ADDL. CIVIL JUDGE AND JMFC
MANGALORE-578301

70. ZAIBUNNISSA
W/O RIYAZ AHAMAD
AGED 38 YEAS
CIVIL JUDGE AND JMFC
DEVANAHALLI-562110
71. RAJU M S/O MUNAPPA
AGED 40 YEARS
CIVIL JUDGE AND JMFC, MALUR
KOLAR DISTRICT-563101
72. VENAKTESHAPPA V
S/O VENKATASWAMY
AGED 34 YEARS
CIVIL JUDGE AND JMFC
PANDAVAPURA
MANDYA DISTRICT-571401
73. M. MAHESH BABU
S/O M. MALLAIAH
AGED 31 YEARS
CIVIL JUDGE & JMFC, ALUR
HASSAN DISTRICT-573201
74. BHARATHI SHIVAPUTHRA RAYANNAVAR
W/O BABU SOLEBAIL
AGED 41 YEARS
CIVIL JUDGE AND JMFC
SINDANURU
RAICHUR DISTRICT-584101
75. MANJUNATHA K.P.
S/O KRISHNAPPA
AGED 33 YEARS
CIVIL JUDGE & JMFC
MANDYA-571401
76. SHANKAR K.M.
S/O MUNIAPPA
AGED 34 YEARS
CIVIL JUDGE & JMFC
DAVANAGERE-577001
77. KAMALAKSHA D
S/O RAMAIAH
AGED 36 YEARS

CIVIL JUDGE & JMFC
GUNDLUPETE
CHAMARAJANAGAR DISTRICT-571440

78. PARASHURAM F DODDAMANI
S/O FAKEERAPPA
AGED 39 YEARS
ADDL. CIVIL JUDGE & JMFC
SIRSI, KARWAR DISTRICT-581301
79. SHASHIDHAR MUDUKANA GOWDA
S/O JAYAPPA
AGED 41 YEARS
CIVIL JUDGE & JMFC
SURAPUR
YADGIRI DISTRICT-585201
80. SUJATHA SUVARNA B
W/O DAYANANDA
AGED 41 YEARS
I ADDL. CIVIL JUDGE & JMFC
GADAG-582101
81. SHRIDHARA M
S/O MANJUNATH
AGED 36 YEARS
PRL. CIVIL JUDGE & JMFC
NELAMANGALA-562111
82. CHAMAPAKA
W/O SHRIDHAR
AGED 37 YEARS
ADDL. CIVIL JUDGE & JMFC
NELAMANGALA-562111
83. HARINI M.S.
W/O GIRISH MOHAN
AGED 33 YEARS
CIVIL JUDGE & JMFC
MYSORE-570001
84. BASAVARAJAPPA K.M.
S/O MALUKAPPA
AGED 38 YEARS
I ADDL. CIVIL JUDGE & JMFC
K.G.F., KOLAR-563101

85. NIVEDITHA T.M.
W/O P. SHIVASHANKAR MURTHY
AGED 38 YEARS
CIVIL JUDGE & JMFC
CHITRADURGA-577501
86. DEVENDRA PANDIT
S/O KAMALAKSHA PANDITH
AGED 41 YEAS
CIVIL JUDGE & JMFC
NANJANGUD
MYSORE DISTRICT-570001
87. ANITHA H.V.
W/O BABU N
AGED 36 YEARS
CIVIL JUDGE & JMFC
HOSAKOTE-562114
88. ABDUL KHADAR
S/O N.H. MOHAMMED KUNJU
AGED 39 YEARS
CIVIL JUDGE & JMFC
SOMAVARAPET
MADIKERI DISTRICT-572123
89. LATHA DEVI G.A.
W/O S. VENKATESH
AGED 34 YEARS
CIVIL JUDGE & JMFC
KANAKAPURA
RAMNAGAR-562159
90. PARVEEN A BANKAPUR ABDUL HAMEED
D/O ABDUL HAMEED
AGED 38 YEARS
II ADDL. CIVIL JUDGE & JMFC
II COURT, BIDAR-585401
91. VIJAY KUMAR KANNUR
S/O MAHADEV KANNUR
AGED 34 YEARS
CIVIL JUDGE & JMFC
DEV DURGA
RAICHUR-584101

92. PARAMESHWARA P.J.
S/O D. JAVARAIAH
AGED 43 YEARS
ADDL. CIVIL JUDGE & JMFC
CHAMARAJANAGAR-573001
93. B.K. RAVIKANTHA
S/O KASTHURI RANGACHAR
AGED 37 YEARS
CIVIL JUDGE & JMFC
SHIMOGA-577201
94. SHIVANAND MARUTHI JIPARE
S/O MARUTHI
AGED 35 YEARS
CIVIL JUDGE & JMFC, SANDUR
BELLARI DISTRICT-583101
95. PUTTASWAMY K.M.
S/O K.L. MARI GOWDA
AGED 34 YEARS
CIVIL JUDGE & JMFC
TURUVEKERE
TUMKUR DISTRICT-572101
96. MADHUSUDHAN D.K.
S/O LATE D. KESHAVAMURTHY
AGED 35 YEARS, CIVIL JUDGE & JMFC
BHADRAVATHI
SHIMOGA-577201
97. ANITHA
D/O KORAGA @ KUTTI
AGED 34 YEARS
ADDL. CIVIL JUDGE & JMFC
DEVANAHALLI-562110
98. CHANDRAGOWDA SHIVANAGOUDA SHIVANAGOWDAR
S/O SHIVANA GOUDA
AGED 33 YEARS
CIVIL JUDGE & JMFC
THEERTHAHALLI-577402
99. RAGHAVENDRA D
S/O K.M. DINAKAR

AGED 36 YEARS
CIVIL JUDGE & JMFC, KORATAGERE
TUMKUR DISTRICT-572101

100. ANUPAMALAKSHMI B
W/O C. RAJESHWARA SHASTRI
AGED 35 YEARS, PRINCIPAL CIVIL JUDGE & JMFC
KUNDAPUR-576201
101. SUNITHA
D/O LATE A. SUBBARAYA
AGED 38 YEARS
III ADDL. CIVIL JUDGE & JMFC
UDUPI-576101
102. R. NATESHA
S/O D. RAMACHANDRA
AGED 37 YEARS
CIVIL JUDGE & JMFC
KOLAR-563101
103. RESHMA KALAKAPPA GONI
W/O MAHESH G
AGED 35 YEARS
ADDL. CIVIL JUDGE & JMFC
CHITRADURGA-577501
104. KIRANKUMAR D. WADIGER
S/O DEVENDRAPPA
AGED 37 YEARS
CIVIL JUDGE & JMFC
YALABURGA
KOPPALA DISTRICT-583231
105. YAMNOORAPPA KANAKAPPA BENAL
S/O KANAKAPPA BENAL
AGED 31 YEARS
CIVIL JUDGE & JMFC
SHAHAPUR
YADGIRI DISTRICT-585201
106. JAYALAKSHMI N.B.
D/O N.R. BILIGIRI RANGAIAH
AGED 31 YEARS
CIVIL JUDGE & JMFC, KOPPA
CHICKMAGALUR DISTRICT-576101

107. GEETHANJALI G
W/O MAHESH, AGED 33 YEARS
CIVIL JUDGE & JMFC, KOLLEGAL
CHAMARAJANAGAR DISTRICT-576301

108. SHUBHA
W/O K.R. JAYAPRAKASH
AGED 34 YEARS
CIVIL JUDGE & JMFC, KUNDAPURA
UDUPI DISTRICT-576401

109. SATHISH S.T.
S/O S.T. THYAGARAJ
AGED 36 YEARS
II ADDL. CIVIL JUDGE
MANGALORE-575401

110. UNDI MANJULA SHIVAPPA
D/O SHIVAPPA, AGED 33 YEARS
JMFC III COURT
MANGALORE-575401

111. ESHWARA
S/O. LATE LAKKAYYA
AGED 38 YEARS
ADDL. CIVIL JUDGE & JMFC, ANEKAL
BANGALORE DISTRICT-563402

... PETITIONERS

(BY SHRI K. SHASHI KIRAN SHETTY, SENIOR COUNSEL FOR
SMT. LATHA SHETTY, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REP. BY THE SECRETARY TO GOVERNMENT
M.S. BUILDING
BANGALORE-560001
2. HON'BLE HIGH COURT OF KARNATAKA
OPP: VIDHANA SOUDHA
BANGALORE - 01
THROUGH ITS REGISTRAR GENERAL
3. THE ADDITIONAL CHIEF SECRETARY
GOVERNMENT OF KARNATAKA

DEPARTMENT OF FINANCE
VIDHANA SOUDHA
BANGALORE-560001

... RESPONDENTS

(Note: R3 has been inserted vide Court order dated 30.07.2013)

(BY SHRI R. SUBRAMANYA, AAG &
SHRI VIKRAM HUILGOL, HCGP FOR R1 & R3,
SHRI S.S. NAGANAND, SENIOR COUNSEL FOR
SHRI S. SRIRANGA, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR ENTIRE RECORDS IN RESPECT OF THE IMPUGNED NOTIFICATION PASSED BY THE RESPONDENT AND DIRECT THE RESPONDENTS TO CLARIFY THAT THE NOTIFICATION DATED 31.3.2006 NEW PENSION SCHEME HAS NO APPLICATION SO FAR AS THE MEMBERS OF THE JUDICIARY IN THE STATE OF KARNATAKA WHO CAME TO BE APPOINTED SUBSEQUENT TO 01.01.2006 (ANNEXURE-A) & ETC.

IN W.P. NO.58571/2015

BETWEEN

1. SMT. SHAILAJA N
AGED 44 YEARS
W/O LATE N. RUDRAMUNI
R/A "KUDALA SANGAMA"
GOPAL SWAMY ROAD
GANDHI NAGAR, BALLARI
2. SRI.N. AMIT
AGED 19 YEARS
S/O LATE N. RUDRAMUNI
R/A "KUDALA SANGAMA"
GOPALA SWAMY ROAD
GANDHI NAGAR
BALLARY
3. KUM. APOORVA N.
AGED 14 YEARS

D/O LATE N. RUDRAMUNI
MINOR REP BY HER MOHTER
NATURAL GUARDIAN
PETITIONER NO.1
R/A "KUDALA SANGAMA"
GOPALA SWAMY ROAD
GANDHI NAGAR
BALLARY

... PETITIONEERS

(BY SHRI P.P. HEGDE, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
LAW AND JUSTICE,
REP. BY THE SECRETARY TO GOVERNMENT
M.S. BUILDING
BANGALORE-560001
2. HONBLE HIGH COURT OF KARNATAKA
OPP. VIDHANA SOUDHA
BANGALORE-560001
THROUGH ITS REGISTRAR GENERAL
3. ADDL. CHIEF SECRETARY
GOVERNMENT OF KARNATAKA
DEPARTMENT OF FINANCE
VIDHANA SOUDHA
BANGALORE-560001

... RESPONDENTS

(BY SHRI R. SUBRAMANYA, AAG FOR
SHRI VIKRAM HUILGOL, HCGP FOR R1 & R3,
SHRI S.S. NAGANAND, SENIOR COUNSEL FOR
SHRI S. SRIRANGA, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DECLARE THAT THE NOTIFICATION GOVERNMENT ORDER DTD. 12.01.2010 PRODUCED AT ANNEXURE-'B' HAS NO APPLICATION TO THE PETITIONERS ARE CONCERNED AND ALSO TO ISSUE WRIT IN THE NATURE OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT, DIRECTING R-1 TO CONTINUE THE FAMILY PENSION BENEFITS AS PER THE ORDER OF THE

GOVERNMENT OF KARNATAKA PASSED IN ORDER DTD. 30.9.2010 PRODUCED AT ANNEXURE-'A' OR IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE JUDICIAL PAY COMMISSIONS/COMMITTEE MADE FROM TIME TO TIME AND ETC.

W.P. NO. 44240/2013

BETWEEN

1. KARNATAKA STATE JUDICIAL OFFICERS' ASSOCIATION (REGD)
NO. J1 D 703
NATIONAL GAMES HOUSING COMPLEX
KORAMANGALA, BANGALORE 560047
REPRESENTED BY ITS GENERAL SECRETARY
SRI G.M. SHEENAPPA
S/O LATE MUNIYAPPA
AGED 52 YEARS
NO 402, J2A, JUDICIAL BLOCK
N.G.V. COMPLEX
KORAMANGALA-560 047
2. SRI N RUDRAMUNI
S/O N AYYANNA
AGED 46 YEARS
I ADDL DISTRICT SESSIONS JUDGE
MYSORE-570 004
3. SRI SHIVASHANKAR AMARANNANAVAR
S/O BASAPPA
AGED 43 YEARS
I ADDL. CITY CIVIL AND SESSIONS JUDGE
BANGALORE-560 001
4. SRI R J SATHISH SINGH
S/O R J JAYARAM SINGH
AGED 51 YEARS
I ADDL DISTRICT AND SESSIONS JUDGE
RAICHUR-584 101
5. SMT UMA M G
W/O VENKATESH H SHIVAPUR
AGED 49 YEARS

I ADDL DISTRICT AND SESSIONS JUDGE
BANGALORE-560 001

6. SRI V SRISHANANANDA
S/O G VEDAVYASACHAR
AGED 47 YEARS
46TH ADDL CITY CIVIL AND SESSIONS JUDGE
AND SPL JUDGE FOR CBI CASES
BANGALORE-560 001
7. SRI HANCHATE SANJEEV KUMAR
S/O VIJAYA KUMAR
AGED 42 YEARS
ADDL DISTRICT AND SESSIONS JUDGE
CHITRADURGA-577 501
8. SMT S. MAHALAKSHMI NERALE
W/O B SIDDARAJU
AGED 43 YEARS
47TH ADDL CITY CIVIL AND SESSIONS JUDGE
AND SPL JUDGE FOR CBI CASES
BANGALORE-560 001
9. SRI MASTER R.K.G.M.M MAHASWAMIJI
S/O GANGANNA
AGED 40 YEARS
VIII ADDL CITY CIVIL AND SESSIONS JUDGE
BANGALORE-560 001
10. SRI VENKATESH NAIK T
S/O THAVARYA NAIK
AGED 38 YEARS
28TH ADDL CITY CIVIL AND SESSIONS JUDGE
BANGALORE-560 001
11. POORNIMA BHANDARKAR
@ POORNIMA N. PAI
W/O NARAYANA PAI
AGED 40 YEARS
III ADDL CIVIL JUDGE AND JMFC
SHIVAMOGA-577302
12. VANI A SHETTY
W/O VIJAYAKUMAR RAI
AGED 37 YEARS

I ADDL CIVIL JUDGE AND JMFC
SHIVAMOGA-577 302

13. BHAMINI W/O SHRIDAR
AGED 40 YEARS
CIVIL JUDGE AND JMFC,
YELLAPUR, U.K. KARWAR-581 301
14. TAYYABA SULTANA
W/O M D SHAQUID, AGED 35 YEARS
ADDL CIVIL JUDGE AND JMFC
NELAMANGALA-562 111
15. SHAINY K.M
D/O K.K MACHAYYA
AGED 35 YEARS
PRL. CIVIL JUDGE AND JMFC
CHINCHOL-585 307
16. A G SHILPA
W/O A.K. GANESH KUMAR
AGED 34 YEARS
ADDL. CIVIL JUDGE AND JMFC
SRIRANGAPATNA 571 438
17. G DEEPA
W/O SHANKAR
AGED 33 YEARS
PRL. CIVIL JUDGE AND JMFC
MADDUR, MANDYA-571 401
18. FAIROZ H UKKALI
D/O HANIF SAB UKKALI
AGED 38 YEARS
I ADDL CIVIL JUDGE AND JMFC II
TUMKUR-572 101
19. PREETH J
W/O RAVI KOTYAN
AGED 37 YEARS
PRL. CIVIL JUDGE AND JMFC
PUTTUR, DAKSHIN KANNADA-574 201
20. PREETI SADGURU SADARJOSHI
D/O SADGURU SADARJOSHI

AGED 30 YEARS
CIVIL JUDGE AND JMFC, HUBLI-580 028

21. MAMATHA D
D/O THAMMAREDDY
AGED 35 YEARS
CIVIL JUDGE AND JMFC
NELAMANGAL-562 111
22. MALA N D
W/O SRINIVASA C
AGED 37 YEARS
ADDL CIVIL JUDGE AND JMFC
MAGADI, RAMANAGARA DISTRICT-562 120
23. RASHMI M
W/O GURUMOORTHI M HOLLA
AGED 33 YEARS
METROPOLITAN MAGISTRATE OFFICE
COURT IV, BANGALORE-560 001
24. ANITHA G
D/O VIJAYENDRA BHAT
AGED 38 YEARS
CIVIL JUDGE AND JMFC
SORAB-577 429
25. PADMASHRI MUNNOLI
W/O VARTHESH
AGED 33 YEARS
CIVIL JUDGE AND JMFC
DHARWAD-580 001
26. SMT. KAVERI
W/O SURESH
AGED 39 YEARS
CIVIL JUDGE & JMFC
KOPPAL-583 231
27. SMT. GOMATI M SHET
W/O RAGHAVENDRA
AGED 34 YEARS
PRL.CIVIL JUDGE & JMFC
HOSAKOTE
BANGALORE RURAL DISTRICT-562 114

28. ZAREENA
D/O SAYYED GIUSE PASHA
AGED 35 YEARS
II ADDL CIVIL JUDGE & JMFC
BELLARY-583 101
29. ANITHA N.P.
W/O CHARANKUMAR
AGED 35 YEARS,
ADDL CIVIL JUDGE & JMFC
CHIKKABALLAPUR-562101
30. RESHMA JANE RODRIGUES
D/O A.A. RODRIGUES, AGED 34 YEARS
PRL. CIVIL JUDGE & JMFC
BHATKAL,KARWAR DISTRICT-581 320
31. C M PUSHPALATHA
W/O RAMESH, AGED 39 YEARS
CIVIL JUDGE & JMFC
GUDIBANDE, CHIKKABALLAPUR-56 2101
32. K SRIVIDYA
W/O MAHADEVA PRABHU M.S
AGED 39 YEARS
ADDL. CIVIL JUDGE & JMFC
CHAMARAJNAGAR-571 440
33. SMT. SUJATA M SAMBRANI
W/O MA.LIKARJUNA
AGED 38 YEARS
I ADDL CIVIL JUDGE & JMFC
BHADRAVATHI
SHIVAMOGGA DISTRICT-577 301
34. SHIRIN J ANSARI
D/O J D ANSARI
AGED 33 YEARS
CIVIL JUDGE & JMFC
HIREKERUR, HAVERI DISTRICT-581 111
35. TATTANDA DAMAYANTHI SOMAYYA
W/O VASANTH
AGED 38 YEARS
III-JMFC,MYSORE-570 001

36. VEENA N
W/O ABHINANDAN M N
AGED 36 YEARS,
ACJ & JMFC,C.N.
TUMKUR DISTRICT-572 101
37. M S SHASHIKALA
D/O N C SHIVANANDA
AGED 37 YEARS
III ADDL.CIVIL JUDGE
BELGAUM-590 001
38. KAVITHA S UNDODI
D/O LATE SHIVARAYA
AGED 38 YEARS
PRL. CIVIL JUDGE & JMFC
CHANNAGIRI-577 213
39. A M NALINIKUMARI
W/O SURESH, AGED 37 YEARS
CIVIL JUDGE & JMFC
CHIKKABALLAPURA-562 101
40. VIJETHA PINTY D SOUZA
W/O PRAVEEN
AGED 32 YEARS
ADDL.CIVIL JUDGE & JMFC
KUNDAPURA
UDUPI DISTRICT-576 201
41. ROOPASHRI
W/O S ARUN PRAKASH SHETTY
AGED 32 YEARS
JMFC II COURT
MANGALORE-575 001
42. DAKSHAYANI G K
W/O JAYARAME GOWDA
AGED 41 YEARS
ADDL. CIVIL JUDGE & JMFC
KUNIGAL-572 130
43. YASMEEN PARVEEN L LADKHAN
W/O NISAR AHMAD
AGED 41 YEARS

III ADDL CIVIL JDUGE & JMFC
CHIKODI, BELGAUM DISTRICT-590 001

44. M S SUJATA S PATIL
D/O BANDU
AGED 40 YEARS
PRL. CIVIL JUDGE & JMFC
KUMTA, KARWAR DISTRICT-581343
45. SMT. JYOTHISHREE RAMAGOUDA PATIL
W/O CHANDRASHEKAR D KAROSHI,
AGED 40 YEARS,
JMFC-II COURT, DAVANAGERE-577 001
46. SARASWATHI DEVI
D/O SHIVARAJAPPA
AGED 41 YEARS,
PRL. CIVIL JUDGE & JMFC
JAMKHANDI, BAGALKOT DIST-587 301
47. HULLUR HEMALATA BASAPPA
D/O LATE BASAPPA HULLUR,
AGED 41 YEARS,
ADDL.CIVIL JUDGE & JMFC-II
BIDAR-585401
48. K. VIDYA
W/O VINIT
AGED 42 YEARS
II ADDL AND JMFC-II
GULBARGA-585101
49. C RANGEGOWDA
S/C CHIDANANDA D
AGED ABOUT 36 YEARS
MMTC-V,BANGALORE-560 001
50. MANJUNATHA D.R
S/O RAJU S
AGED 35 YEARS,
PRL. CIVIL JUDGE & JMFC
SRINIVASPUR
KOLAR DISTRICT-563 101
51. ANAND P HOGADE
S/O P V HOGADE

AGED 33 YEARS
CIVIL JUDGE & JMFC
MUDDEBIHAL
BIJAPUR DISTRICT-586 101

52. C.S. JITHENDRANATH
S/O SUBRAMANYAM
AGED 38 YEARS
CIVIL JUDGE & JMFC
SOMWAPET
KODAGU DISTRICT-571 236
53. SANTHOSH S PALLEDH
S/O SIDDAPPA PALLED
AGED 34 YEARS
CIVIL JUDGE & JMFC
PAVAGADA-561 202
54. PRABHAKARA RAO
S/O GUNDE GOWDA
AGED 39 YEARS
PRL. CIVIL JUDGE & JMFC
ATHANI, BELGAUM-591 304
55. KEMPARAJU
S/O CHIKKA KEMPAIAH
AGED 40 YEARS
PRL. CIVIL JUDGE & JMFC
BIDAR-585 401
56. PRASAD K.B
S/O BHASY K.N
AGED ABOUT 34 YEARS
CIVIL JUDGE & JMFC
BEELAGI, BAGALKOTE-587 101
57. VEDAMOOTHY B S
S/O SADANANDA BHAT
AGED 32 YEARS
CIVIL JUDGE & JMFC, TUMKUR-572 101
58. JAYAPRAKASH A
S/O A C POOJARY
AGED 35 YEARS
CIVIL JUDGE & JMFC
VIRAJPET, KODAGU-MADIKERI – 571 236

59. JAYAPRAKASH D.R.
S/O D.S. RANGEGOWDA
AGED 37 YEARS
ADDL. CIVIL JUDGE & JMFC
BANTWAL
DAKSHINA KANNADA DISTRICT-574 153
60. RAVI KUMAR H.R
S/O RANGAIAH H.C
AGED 36 YEARS
CIVIL JUDGE & JMFC
YELANDUR, CHAMARAJANAGARA
DISTRICT-571 495
61. PURUSHOTAM M
S/O LATE MAHADEVAPPA
AGED 38 YEARS
CIVIL JUDGE & JMFC
KOLLEGALA
CHAMARAJANAGAR DISTRICT-571 440
62. DEVANANDA
S/O LATE D KUMARASWAMY
AGED 40 YEARS
PRL CIVIL JUDGE & JMFC
ARSIKERE, HASSAN DISTRICT-573103
63. SRI PRAKASH CHANNAPPA KURABETT
S/O CHANNAPPA KURABETT
AGED 41 YEARS
ADDL. CIVIL JUDGE & JMFC
ARSIKERE-573 103
64. KULKARNI GURUPRASAD RAGHAVENDRA
S/O RAGHAVENDRA
AGED 32 YEARS
ADDL.CIVIL JUDGE & JMFC
DHARWAD-580 001
65. RAJESH MARUTHI KAMATE
S/O MARUTHI KAMATE
AGED 36 YEARS
PRL. CIVIL JUDGE & JMFC
MUDHOL-585 318

66. NAGESH KURAG MUGER
S/O KORAGA MASTI MOGER
AGED 37 YEARS
I ADDL CIVIL JUDGE & JMFC
BIJAPUR-586 101
67. GANGADHAR CHANNABASAPPA
HADAPAD, S/O CHANNABSAPPA HADAPAD
AGED 37 YEARS
CIVIL JUDGE & JMFC
BADAMI
BAGALKOTE DISTRICT-587 201
68. SUNIL S HOSAMANI
S/O SIDDAPPA
AGED 39 YEARS
CIVIL JUDGE & JMFC
HUKKERI, BELGAUM DISTRICT-591 309
69. UMESH S ATNURE
S/O SATHALINGAPPA
AGED 36 YEARS
PRL. CIVIL JUDGE & JMFC
KHANAPUR, BELGAUM-591 302
70. MOHAMMED ARIFULLA
S/O MOHAMMED FAZLULLA
AGED 41 YEARS
ADDL CIVIL JUDGE & JMFC
KHANAPUR, BELGAUM-591 302
71. MALLIKARJUNA A. AMBLI
S/O APPASAHEB
AGED 36 YEARS
I ADDL. CITY CIVIL JUDGE & JMFC
CHIKKODI, BELGAUM-591 211
72. AMARNATH K.K.
S/O KUSHALAPPA K.M.
AGED 34 YEARS
PRL. CIVIL JUDGE, & JMFC
NIPPANI-591 237
73. S. MAHESH
S/O B. SIDDAPPA
AGED 34 YEARS

PRL. CIVIL JUDGE & JMFC
SIDDLAGHATTA-562 105

74. S.G. SALAGARE
S/O GANGAPPA
AGED 41 YEARS
PRL. CIVIL JUDGE & JMFC
CHINTAMANI-563 125
75. VIJAYA DEVARAJA URS
S/O SUNDARA RAJU
AGED 39 YEARS
ADDL. CIVIL JUDGE & JMFC
SIDLAGHATTA-562 105
76. DEVARAJU H.M.
S/O LATE MUDDAIAH
AGED 39 YEARS
PRL. CIVIL JUDGE & JMFC
TUMKUR-572101
77. N.M. RAMESH
N.C. MARISWAMY
AGED 41 YEARS
CIVIL JUDGE & JMFC
BAGEPALLI-561207
78. NAGESHMURTHY B.K.
S/O B.M. KALIAH
AGED 42 YEARS
ADDL. CIVIL JUDGE & JMFC
CHANNAPATNA-562160
79. D. SURESHA
S/O DAYAKARAYYA
PRL. CIVIL JUDGE & JMFC
AGED 37 YEARS
MADHUGIRI-572132
80. H.K. UMESHA
S/O H.K. KUNJIAH
AGED 40 YEARS
CIVIL JUDGE & JMFC
GUBBI,
TUMKUR DISTRICT-572 162

81. RAJU.N
S/O LINGAIAH
AGED 37 YEARS
ADDL. CIVIL JUDGE & JMFC
MULABAGILU-563 131
82. RAJANNA SANKANNARU
S/O MAHADEVAPPA
AGED 39 YEARS
PRL. CIVIL JUDGE & JMFC
MALUR-563 130
83. R.P.NANDEESHA
S/O R.PUTTAREVANNA
AGED 40 YEARS
PRL.CIVIL JUDGE & JMFC,
KGF-563115
84. R.P.GOWDA
S/O RAMADASAPPA.G
AGED 40 YEARS
I.ADDL.CIVIL JUDGE & JMFC
BELGAUM-590 001
85. PRAKASH NAYAK
S/O GANAPATHI NAYAK
AGED 35 YEARS
II. ADDL. CIVIL JUDGE & JMFC
BELGAUM-590 001.
86. ANAND
S/C TUKARAMSA CHAVAN
AGED 35 YEARS
IV JMFC, BELGAUM-590001
87. GANAPATHI PRASHANTH M
S/O SHANKARANARAYANA
AGED 33 YEARS
ADDL. CIVIL JUDGE AND J.M.F.C.
DODDABALLAPURA-561203
88. A.NAGI REDDY
S/O KACHI REDDY
AGED 35 YEARS,

PRL.CIVIL JUDGE AND J.M.F.C.,
DODDABALLAPURA-561 203.

... PETITIONERS

(BY SHRI SHASHIKIRAN SHETTY, SENIOR ADVOCATE
FOR SMT. LATHA SHETTY, ADVOCATE:)

AND

1. THE STATE OF KARNATAKA
REP. BY THE SECRETARY TO GOVERNMENT
AND FINANCE DEPARTMENT
M.S.BUILDING
BANGALORE-560 001
2. HON'BLE HIGH COURT OF KARNATAKA
OPP. VIDHANA SOUDHA
BANGALORE-560001
THROUGH ITS REGISTER GENERAL
3. THE ADDITIONAL CHIEF SECRETARY
GOVERNMENT OF KARNATAKA
DEPARTMENT OF FINANCE
VIDHANA SOUDHA, BANGALORE-560 001

... RESPONDENTS

(BY SHRI R. SUBRAMANYA, AAG &
SHRI VIKRAM HUILGOL, HCGP FOR R1 & R3,
SHRI S.S. NAGANAND, SENIOR COUNSEL FOR
SHRI S. SRIRANGA, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL
FOR ENTIRE RECORDS IN RESPECT OF THE IMPUGNED
NOTIFICATION PASSED BY THE RESPONDENTS & DIRECT
RESPONDENTS TO CLARIFY THAT THE NOTIFICATION
DT.31.3.2006 NEW PENSION SCHEME HAS NO APPLICATION
SO FAR AS THE MEMBERS OF THE JUDICIARY IN THE STATE
OF KARNATAKA WHO CAME TO BE APPOINTED SUBSEQUENT
TO 01.01.2006 (ANNEXURE-A) AND ETC.

THESE WRIT PETITIONS HAVING BEEN HEARD AND
RESERVED, COMING ON FOR PRONOUNCEMENT OF ORDER,
THIS DAY, CHIEF JUSTICE PRONOUNCED THE FOLLOWING:

ORDER

The controversy involved in these writ petitions is more or less the same. These writ petitions concern the service conditions of the Judicial Officers in the State concerning pensionary benefits admissible to them. The challenge is to the Notification G.O.No.FD (Spl) 04 PET 2005 dated 31st March 2006 issued by the State Government for introducing 'New Defined Contributory Pension Scheme' (for short, 'the New Pension Scheme') with effect from 1st April 2006 and the said scheme is made operational from 1st April, 2010. The the new pension scheme was made applicable to the employees who joined the government employment on or after 1st April 2006. The scheme provided for employees' contribution of 10% of the basic pay and dearness allowance (DA) with the matching contribution from the State Government. The Government Order was issued on 29th March 2010 regarding the implementation of the new pension scheme. The new pension scheme is sought to be applied to the Judicial Officers, appointed on or after 1st April 2006.

2. Initially, some of the Judicial Officers of the Karnataka Cadre made an interim application (IA No.287/2012) in Writ

Petition No.1022 of 1989 pending before the Apex Court for challenging the applicability of 'the New Pension Scheme' to the Judicial Officers. On 30th March 2012, the Apex Court granted interim relief staying the applicability of the the new pension scheme to the Judicial Officers. On 1st April 2013, the Apex Court disposed of the said interim application and granted liberty to the Judicial Officers to seek appropriate relief from this Court. Accordingly, the Karnataka State Judicial Officers' Association and 87 Judicial Officers have filed writ petition No. 44240-327 of 2013 for seeking various reliefs. The first petitioner is an association of the Judicial Officers in the State. It is registered under the Karnataka Societies Registration Act, 1960. The first relief claimed is for issuing a writ of mandamus seeking a direction against the respondents to clarify that the Notification G.O. No. FD (Spl) 04 PET 2005 dated 31st March 2006 is not applicable to the Judicial Officers who are appointed after 1st April 2006. A prayer is also made for quashing the subsequent GO. No.'FP (Spl) 28 Pen 2009 dated 29th March 2010 on the basis of which, recovery 10% contribution from the salary of the Judicial Officers was ordered by way of contribution to the new pension scheme. A writ of mandamus is also sought for directing the State of Karnataka

to continue with the old pension scheme which was applicable till 1st April, 2006.

3. Writ Petition No. 58571 of 2015 has been filed by the petitioners who are the legal representatives (widow and children) of a Judicial Officer who was serving as a District Judge in Karnataka State Judiciary. He was appointed as such in the year 2008, who died in a road traffic accident on 14th May 2014. The case of the petitioners is that they are entitled to family pension as per the Government Order dated 30th September 2010. It was pointed out that the relief of family pension has been denied to the petitioners by the State Government by contending that the Judicial Officers appointed after 1st April, 2006 are governed by 'the New Pension Scheme'. The prayer in the writ petition is for quashing the Government Order bearing No.FD.03. SRA 2010, dated 12th January 2010. A prayer is also made for a writ of mandamus directing the State Government to continue the family pension benefits as per the Government Order dated 30th September 2010. It is pointed out that though an opinion was expressed by the Committee of three Hon'ble Judges of this Court to the effect that 'the New Pension Scheme' is not applicable to the

Judicial Officers, steps were taken by the Government to recover the contribution.

4. Writ Petition Nos. 24385 of 2013 and other connected writ petitions have been filed by 111 Judicial Officers seeking a writ of mandamus directing the respondents to clarify that the Government Order bearing No.FD (Spl) 04 PET 2005 dated 31st March 2006 has no application insofar as it relates to the members of the Judiciary are concerned. The second prayer in the said writ petition was for quashing the Government Order bearing No. FP (Spl) 28 Pen 2009 dated 29th March 2010. A prayer was also made seeking a writ of mandamus to direct the State Government to continue with the old pension scheme with respect to Judicial Officers. In this writ petition (24385/2013), an interim order was granted on 24th June 2013, staying recovery of the amount equivalent to 10% of the basic salary and dearness allowance from the salary of the Judicial Officers.

5. In Writ petition No. 24385/2013 and other connected writ petitions, statement of objections have been filed by the State Government in which, reliance was placed on the provisions of the Karnataka Judicial Services (Recruitment) Rules, 2004. It

is submitted that the Karnataka Civil Services Rules which are deemed to have been made under the Karnataka Civil Services Act, 1978, govern the pension payable to the government servants. It is submitted that except to the extent of the recommendations of the first and second Judicial Pay Commissions, the Judicial Officers are government servants. It is submitted that the Karnataka Judicial Services (Recruitment) Rules, 2004 were made under Article 309 read with 233, 234 and 235 of the Constitution of India and therefore, all the Judicial Officers are civil servants. The main features of the new pension scheme were set out in the objections. It is submitted that the decision to apply the new pension scheme is a policy decision of the Government. It is pointed out that the Government Order dated 31st March 2006 making applicable the new pension scheme was very much in existence when the appointments were made to the post of the Judicial Officers on or after 1st April 2006. The Judicial Officers being the Government servants, they are governed by the new pension scheme. It was further submitted that there was no merit in the writ petition.

6. The High Court administration also filed a statement of objections supporting the cause of the Judicial Officers and it

was submitted that the action of the State Government in applying the new pension scheme to the Judicial Officers is contrary to various directions issued by the Apex Court from time to time.

7. The learned counsel appearing for the petitioners has taken us through the recommendations made by the First National Judicial Pay Commission (popularly known as Justice Shetty Commission) as well as the recommendations made by the Second National Judicial Pay Commission (popularly known as Justice Padmanabhan Commission). The submission of the learned counsel appearing for the petitioners is that separate pay Commissions were established to consider and recommend the pay and allowances payable to the Judicial Officers and the recommendations made by both the Commissions were accepted by the Apex Court by issuing necessary directions to all the State Governments to implement the same. The submission, in short, is that the pay of the Judicial Officers is governed by the Orders of the Apex Court accepting both the reports with modifications and therefore, the act of applying the new pension scheme which requires 10% deduction from the salary of the Judicial Officers is completely

in gross violation of the directions issued by the Apex Court. Moreover, by erroneously equating the services of the Judicial Officers with that of civil servants, the new pension scheme was applied to the Judicial Officers by the State Government. It is also pointed out that the payment of pension to the Judicial Officers is strictly governed by the Judicial Pay Commissions' recommendations and therefore, introducing the new pension scheme and applying the same to the Judicial Officers is contrary to the directions issued by the Apex Court and it is completely illegal. In support of his arguments, reliance was placed on the various decisions of the Apex Court.

8. The learned Additional Advocate General opposed the writ petitions. His contention is that as far as the payment of pension is concerned, the Judicial Officers are equivalent to the Government Servants except to an extent of certain modifications made by the first and second National Judicial Pay Commissions. He submitted that the recommendations of the second National Judicial Pay Commission were made after introduction of the new pension scheme by the State Government. However, the Pay Commissions report is silent about the applicability of the new pension scheme to the

Judicial Officers. His submission is that as the Karnataka Judicial Service (Recruitment) Rules, 2004 were made in exercise of powers under Article 309 read with 233, 234 and 235 of the Constitution of India, the Judicial Officers are civil servants. He submitted that in the said Rules 2004, the word 'service' has been defined as 'Karnataka State Judicial Services' and, therefore, all the rules regulating conditions of service of the members of the State Civil Service are applicable to the Judicial Officers as well. He pointed out that the new Defined Contributory Pension Scheme was introduced by the Central Government after considering the reports from the experts and in terms of the said scheme, the State of Karnataka has framed the new pension scheme. He submitted that in the terms of reference incorporated in the order of the Apex Court, under which, the First National Judicial Pay Commission was constituted, the mode of payment of pension was not a part. He submitted that under the new pension scheme, contribution of 10% is deducted from the salaries of the Officers and the same amount is being contributed by the Government as well. He submitted that the order dated 30th September 2010 passed by the Government is in terms of the directions of the Apex Court, accepting the report of Justice

Padmanabhan Committee. He would, therefore, submit that there is no merit in these writ petitions.

9. We have given careful consideration to the submissions made across the Bar. The primary argument of the State Government is that the Judicial Service is also a civil service. The Apex Court, in its decision in the case of ***All India Judges' Association and others –vs- Union of India and others***¹ issued various directions including a direction that as and when the Pay Commissions/Committees are set up in the States and Union territories, the question of appropriate pay scales of judicial officers be specifically referred and considered. Various other directions regarding the perquisites to the Judicial Officers were also issued by the said judgment. A review of the said directions was sought by the Union of India and various other State Governments. The review petition was decided by the Apex Court on 24th August 1993². In the said review petition, an argument was that the power to regulate the conditions of service of the Judicial Officers vests with the Executive which is subject to Legislative control. Reliance was placed by the review petitioners on Article 309 of the

¹ (1992) 1 SCC 119

² (1993) 4 SCC 288

Constitution of India by pointing out that the matters concerning the appointments, promotions and terms and conditions of the service of the Judicial Officers are to be decided by the State Government/Union territories subject to such laws, as may be passed by the Legislature/Parliament. The said contentions raised by the review petitioner were rejected by the Apex Court. The dictum of the Apex Court in paragraph 7 and 8 of the said decision reads thus:

“7. It is not necessary to repeat here what has been stated in the judgment under review while dealing with the same contentions raised there. We cannot however, help observing that the failure to realize the distinction between the judicial service and the other services is at the bottom of the hostility displayed by the review petitioners to the directions given in the judgment. The judicial service is not service in the sense of 'employment'. The Judges are not employees. As members of the judiciary, they exercise the sovereign judicial power of the State. They are holders of public offices in the same way as the members of the council of ministers and the members of the legislature. When it is said that in a democracy such as ours, the executive, the legislature and the judiciary constitute the three pillars of the State, what is intended to be conveyed is that three essential

functions of the State are entrusted to three organs of the State and each one of them in turn represents the authority of the State. However, those who exercise the State power are the Ministers, the Legislators and the Judges, and not the members of their staff who implement or assist in implementing their decisions. The council of ministers or the political executive is different from the secretarial staff or the administrative executive which carries out the decisions of the political executive. Similarly, the Legislators are different from the legislative staff. So also the Judges from the judicial staff. The parity is between the political executive, the Legislators and the Judges and not between the Judges and the administrative executive. In some democracies like the USA, members of some State judiciaries are elected as much as the members of the legislature and the heads of the State. The Judges, at whatever level they may be, represent the State and its authority unlike the administrative executive or the members of the other services. The members of the other services, therefore, cannot be placed on a par with the members of the judiciary, either constitutionally or functionally.

8. This distinction between the Judges and the members of the other services has to be constantly kept in mind for yet another important reason. Judicial independence cannot be secured by

making mere solemn proclamations about it. It has to be secured both in substance and in practice. It is trite to say that those who are in want cannot be free. Self-reliance is the foundation of independence. The society has a stake in ensuring the independence of the judiciary, and no price is too heavy to secure it. To keep the Judges in want of essential accouterments and thus to impede them in the proper discharge of their duties, is to impair and whittle away justice itself".

(Underline supplied)

The argument of the review petitioners based on the applicability of Article 309 of the Constitution of India were also dealt with by the Apex Court in paragraph 10 of the said decision which read thus:

"10. This leaves us with the contention of the review petitioners that by the directions in question, this Court has encroached upon the powers of the executive and the legislature under Article 309 to prescribe the service conditions for the members of the Judicial Service. In view of the separation of the powers under the Constitution, and the need to maintain the independence of the judiciary to protect and promote democracy and the rule of law, it would have been ideal if the most dominant power of the executive and the legislature over the judiciary, viz., that of determining its service

conditions had been subjected to some desirable checks and balances. This is so even if ultimately, the service conditions of the judiciary have to be incorporated in and declared by the legislative enactments. But the mere fact that Article 309 gives power to the executive and the legislature to prescribe the service conditions of the judiciary, does not mean that the judiciary should have no say in the matter. It would be against the spirit of the Constitution to deny any role to the judiciary in that behalf, for theoretically it would not be impossible for the executive or the legislature to turn and twist the tail of the judiciary by using the said power. Such a consequence would be against one of the seminal mandates of the Constitution, namely, to maintain the independence of the judiciary".

(Underline supplied)

In paragraph 11 of the above Judgment, the Apex Court directed that the service conditions of the Judicial Officers should be laid down and reviewed from time to time by an independent Commission exclusively constituted for the purpose. That is how, the First National Judicial Pay Commission headed by a retired Supreme Court Judge, Justice Jagannatha Shetty was appointed by the Government on 21st March 1996. One of the terms in the terms of reference, as

quoted in paragraph 5 of the decision of the Apex Court, in the case of ***All India Judges' Association and others -vs- Union of India and others***³ reads thus:

"5. Xxxx (b) To examine the present structure of emoluments and conditions of service of judicial officers in the State/UTs taking into account the total packet of benefits available to them and make suitable recommendations having regard, among other relevant factors, to the existing relativities in the pay structure between the officers belonging to the Subordinate Judicial Service *vis-à-vis* other civil servants".

(Underline supplied)

10. Accordingly, a report was submitted by the First National Judicial Pay Commission headed by Justice Shetty which also made recommendations regarding the pensionary benefits. Paragraph 22.63 of the report deals with pensionary benefits to the Judicial Officers. Accordingly, by its order dated 21st March 2002, the Apex Court accepted the recommendations of the Justice Shetty Commission and directed implementation thereof by all the States and Union territories.

³ (2002) 4 SCC 247

11. By an order dated 28th April 2009 passed by the Apex Court, in the case of ***All India Judges Association and others -vs- Union of India and others***⁴ the Apex Court appointed Second Judicial Commission headed by Justice Padmanabhan. In paragraph 6 of the said order, the Apex Court specifically directed that:

"6. Xxxx the Commission is also requested to make recommendations in respect of the pension of judicial officers and submit a report as aforesaid".

(Underline supplied)

Accordingly, a report was submitted by the said Commission making various recommendations including the recommendations regarding the quantum of pension payable to the judicial officers. It had recommended for continuation of the pension fixed by the First National Judicial Pay Commission at the rate of 50% of the average emoluments drawn during the 10 months preceding the age of superannuation. In clause (a) of paragraph 33, a recommendation was made to slash the qualifying years of service from existing 33 years to 20 years for entitlement to receive full pension. Paragraph 34 (b) of the recommendations lays down that the earlier recommendations

⁴ (2011) 12 SCC 677

made by the First National Judicial Pay Commission headed by Justice Shetty will be continued subject to certain modification with respect to qualifying years of service for earning full pension. In paragraph 35 (b), a formula was laid down for computing the pension including family pension payable to the judicial officers. The said recommendations of the Second Judicial Pay Commission headed by Justice Padmanabhan were accepted by the Apex Court by the order dated 26th July 2010 passed in the case of ***All India Judges Association and others -vs- Union of India and others***⁵.

12. Paragraph 2 of the said order notes/records that Justice Padmanabhan Commission has recommended continuation of certain recommendations made by Justice Shetty Commission. The Apex Court, after perusing those recommendations, issued directions based on the recommendations of Justice Padmanabhan Commission. It is necessary to refer to paragraphs 7, 8 & 10 of the said judgment of the Apex Court which read thus:

"7. We further accept the Report of Justice Padmanabhan Committee in which, vide Para 34 (b), it has been stated that with respect to quantum

⁵ (2010) 14 SCC 713

of pension and its calculation, the recommendation of Justice Shetty Commission will continue subject to a modification with respect to qualifying years of service for earning full pension, which shall be twenty years, as directed above, instead of thirty years. It is further clarified that as far as computation of pension is concerned, it shall be computed at fifty percent of the last pay drawn.

8. As far as additional quantum of pension is concerned, direction has been sought vide Para 35 (b) of Justice Padmanabhan Committee Report. Accordingly, we direct that additional quantum of pension will be paid to the judicial officers, who have since retired, including family pensioners, in terms of the Sixth Central Pay Commission Report. In other words, they will be paid according to the chart annexed at p.31 (First Part), which is reproduced herein below:

Age of pensioner/ family pensioner	Additional quantum of pension
From 80 years to less than 85 years	20% of revised basic pension/family pension
From 85 years to less than 90 years	30% of revised basic pension/family pension
From 90 years to less than 95 years	40% of revised basic pension/family pension
From 95 years to less than 100 years	50% of revised basic pension/family pension
100 years or more	100% of revised basic pension/family pension

10. We may place on record that, as far as the above directions are concerned, no State has raised any objection".

(Underline supplied)

13. The State of Karnataka was also before the Apex Court. Specifically based on the aforesaid order/Judgment of the Apex Court dated 26th July 2010 passed in W.P (C) No.1022 of 1989 and further order dated 2nd August 2010, the Government of Karnataka issued the Order bearing Order No.LAW 147 LAC 2009 dated 30th September 2010. While categorizing the pensioners into three categories, paragraph (iii) of the said Government Order provides for revision of family pension with effect from 1st January 2006. The above provision was made as directed by the Apex Court in paragraph - 8 of the aforesaid Order. As far as the argument of the State Government that the Judicial Officers will have to be treated on par with the government servants is concerned, such contentions were already considered and rejected by the Apex Court.

14. In any event, now the pay and service conditions of the Judicial Officers including the payment of pension are governed by the directions issued by the Apex Court. The order of the Apex Court dated 26th July 2010 (supra), particularly

paragraph-2 clearly refers to the recommendations of Justice Padmanabhan Commission and Justice Shetty Commission regarding pension payable to the Judicial Officers and it clearly records that recommendations made by Justice Shetty Commission as regards pension cannot be modified. This Order clearly shows that the recommendations of the Shetty Commission which were specifically accepted by the Apex Court included the recommendations regarding pension payable to the Judicial Officers. Further, the Order of the Apex Court dated 26th July 2010 specifically records that no State Government has raised any objection to the direction contained in the said order which accepts the recommendations in the Justice Padmanabhan Commission report, as regards pension and family pension payable to the Judicial Officers. As noted earlier, in paragraph 8, the Apex Court categorically laid down a formula for payment of pension and family pension. Neither Justice Padmanabhan Commission report which was submitted in the year 2009 nor the aforesaid Order of the Apex Court dated 26th July 2010, accepting the recommendations made in the report lay down that a different set of Rules will apply to the pension payable to the Judicial Officers appointed after 1st April 2006.

15. An argument has been canvassed in the objections filed by the State Government that as the recommendations of Justice Padmanabhan Commission were accepted long after the decision of the State Government of introducing the new pension scheme made applicable to the government servants appointed after 1st April 2006, and as the Apex Court has not said anything about the applicability of the scheme, the same remains unaffected. This contention is fallacious. The State of Karnataka which was before the Apex Court ought to have raised such a contention before the Apex Court. If really the State of Karnataka intended to apply the said new pension scheme even to the Judicial Officers, there was no legal impediment in the way the State Government raising such contention before the Apex Court. On the contrary, the order dated 26th July 2010 which records acceptance of the recommendations of the Second Pay Commission including the recommendations in respect of pension, notes that none of the States had any objection for passing the said order. The State Government acted upon the said order by issuing the order dated 30th September 2010. There is no manner of doubt that even the pension payable to the Judicial Officers will be strictly

governed by the recommendations made by both the National Judicial Pay Commissions, as accepted by the Apex Court. Therefore, applying the different yardsticks for payment of pension to the Judicial Officers appointed on or after 1st April 2006 will be directly contrary to and in breach of the directions of the Apex Court. Moreover, the pay/salary of the Judicial Officers has been determined by the Apex Court by accepting the recommendations made by the two Judicial Pay Commissions and by directing the implementation thereof by all the State Governments. The State Government, without seeking permission of the Apex Court, has no power to tinkle with the quantum of the salaries and pension payable to the Judicial Officers. As noted earlier, the new pension scheme contemplates contribution of 10% of the basic salary and dearness allowance by the Judicial Officers and the said amount will be deducted from the salary of the Judicial Officers. Thus, looking from any angle, the act of the State Government in applying the new pension scheme to the Judicial Officers of the State appointed after 1st April 2010 and consequential act of making 10% deductions from their salary is not only completely against the recommendations of the two National Judicial Pay Commissions Report but also in breach and gross

violation of the directions issued by the Apex Court and hence, the same is illegal.

16. At this stage, it is necessary to note that the State of Maharashtra also introduced a similar pension scheme providing for deduction of 10% from the salary of the Judicial Officers. The said scheme was made applicable to the Judicial Officers of that State appointed on or after 1st November 2005. The decision of the State Government to apply such new contributory pension scheme to the judicial officers appointed on or after 1st November 2005 which provided for deduction of 10% of the basis salary of the Judicial Officers was challenged before a Division Bench of the Bombay High Court and the said challenge was upheld by the Bombay High Court, in the case of ***Vihar Durve -vs- The State of Maharashtra and others***⁶. It is necessary to make a reference to paragraphs- 14 and 15 of the said decision which read thus:

"14. We have considered the submissions. There is a fallacy in the stand taken by the State Government. In fact, the State Government accepted the recommendations of Padmanabhan Committee appointed under the orders of the Apex Court.

⁶ 2017 SCC Online Bom 7560/(2017) 7 Bom CR 623

The Apex Court by an order dated 26th July 2010 directed that the benefits recommended by the Padmanabhan Committee should be applied with effect from 1st January, 2006. As per the orders of the Apex Court, service conditions of the Judicial Officers in the State including pensionary benefits shall be in terms of recommendations of Padmanabhan Committee which are accepted by the Supreme Court. As far as pensionary benefits to the Judicial Officers are concerned what operates is the Government Resolution dated 5th January, 2011 (as modified on 30th March 2011). Prior to acceptance of the report of the Padmanabhan Committee, the service conditions were governed by the Report of Justice Shetty Commission as modified by the Apex Court. The recommendations as amended by the order of the Apex Court were in operation. Therefore, when the impugned Government Resolution was issued, the order of the Apex Court directing that service conditions of the Judicial Officers shall be governed by the Shetty Commission Report was in force. Therefore, the action of applying the impugned Government Resolution to the Judicial Officers is completely contrary to the directions of the Apex Court. In fact, the impugned Government Resolution is not at all applicable to the Judicial Officers who are appointed from 1st November,

2005. The terms and conditions of service of Judicial Officers including the grant of pensionary benefits are governed by the directions of the Apex Court. Therefore, even if the letters of appointment issued to the Judicial Officers appointed after 1st January, 2005 contain a clause that the pension will be governed by the impugned Government Resolution, the same will not be binding on the Judicial Officers.

15. As per the New Scheme introduced by the impugned Government Resolution, a government servant is required to make contribution equivalent to 10% of his basic salary plus dearness pay and the said amount will be deducted from his salary. The salary payable to the Judicial Officers is determined firstly by recommendations of Shetty Commission and secondly by recommendations of Fadmanaban Committee as accepted by the Apex Court. The State Government cannot affect the quantum of salary of Judicial Officers in this fashion by providing for a deduction of 10% of basic salary plus dearness pay from the salary of a Judicial Officer. The orders of the Apex Court do not permit such a deduction to be made. Making of such deduction from the

salary of a Judicial Officer will be a breach of the orders of the Apex Court."

(Underline supplied)

17. Therefore, in view of the dictum of the Apex Court and the decision of the Bombay High Court referred supra and for the reasons recorded above, we are inclined to hold that the Government Order bearing No.FD (SPL) 04 PET 2005, dated 31st March 2006 (Annexure-A in Writ Petition No.44240 of 2013) is not applicable to the Judicial Officers of the Karnataka cadre. Accordingly, the subsequent Government Order bearing No.FP (SPL) 28 PEN 2009 dated 29th March 2010 (Annexure-B in Writ Petition No. 44240 of 2013), laying down guidelines for operation/implementation of the new pension scheme shall not apply to the Judicial Officers. Therefore, any deductions made from the salary of the Judicial Officers appointed after 1st April 2010 towards their contribution to the new pension scheme will have to be refunded.

18. The petitioner in writ petition No.58571 of 2015 will be entitled to family pension as the deceased Judicial Officer will not be governed by the new pension scheme. The petitioner

will be entitled to enhanced family pension as per the Government Order dated 30th September 2010.

19. We may clarify here that it will be always open for the Judicial Officers of the Karnataka cadre to opt for the new pension scheme if they desire to do. Therefore, we dispose of these writ petitions by passing the following:

ORDER

- i) We hold and declare that the Government Orders bearing No.FD (SPL) 04 PET 2005, dated 31st March, 2006 and the Government Order bearing No.FP (SPL) 28 PEN dated 29th March 2010 are not applicable to the Judicial Officers of the Karnataka cadre;
- ii) We restrain the State Government from applying the said the new pension scheme to the Judicial Officers without their consent in writing;
- iii) Consequently, no deductions from the salaries of the Judicial Officers shall be made on the basis of the aforesaid Government Orders;
- iv) The State Government, through its Law and Justice Department, shall call upon all the Judicial Officers

who have been appointed on or after 1st April, 2006 to submit their option/consent in writing to opt for 'the new pension scheme' as per Government Order dated 31st March 2006. Such option shall be invited within a period of four weeks from today, by granting time to the Judicial Officers to exercise their option by 31st January 2020;

v) In case of Judicial Officers who do not opt for the new pension scheme, the State Government shall refund the amount already deducted from their respective salaries in terms of the Government Order dated 29th March, 2010 read with the Order dated 31st March 2006. Such refund shall be made on or before end of February 2020. Needles to add that such Judicial Officers who have not opted for "the New Pension Scheme" shall be governed by old pension scheme which is applicable to the Judicial Officers appointed prior to 1st April 2006;

vi) In the event of the failure of the Government to make refund of the amounts within the time stipulated above, the same shall carry interest at the rate of 6% per

annum from the date on which the respective deductions were made, till the date of repayment to the concerned Judicial Officers;

vii) The petitioners in Writ Petition No.58571 of 2015, who are the legal representatives (widow and children) of a Judicial Officer who was appointed in the year 2008 and died in a road traffic accident on 14th May 2014, are entitled to the family pension as payable in case of a Judicial Officer appointed prior to 1st April 2006 in accordance with the Government Order dated 30th September 2010. If the petitioners have not complied with the mandatory procedural formalities, the same shall be got completed from them by 31st December 2019;

viii) The arrears of family pension payable to the petitioners in writ petition No.58571 of 2015 up to 31st January 2020 shall be paid to them on or before 31st January, 2020. If there is a delay in making payment of family pension, the same shall carry interest at the rate of 6% per annum from the date of filing of the writ petition No.58571 of 2015 till the date of payment. The

regular family pension payable to the petitioners from February, 2020 shall be regularly and punctually paid from February, 2020 onwards;

- (ix) These writ petitions are allowed on the above terms. There shall be no orders as to the costs.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

Vr